

REMARKS:

Upon entry of the Amendment above, claims 1-4, 8-10, 15, 17-42, 54-67, and 130-199 will be pending in this application. By this Amendment, claims 34 is amended, and claims 68-70 are cancelled, and claims 198 and 199 are added. No new matter has been added by this amendment.

Claim Objections

Claim 34 has been objected to for improperly depending on itself. Claim 34 has been amended to depend from claim 33. Withdrawal of the rejection in light of the amendment is respectfully requested.

Rejection under 35 U.S.C. §112, second paragraph

Claims 68-70 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite for lacking proper antecedent basis for “proinflammatory cytokine.” Claims 68-70 have been cancelled rendering the rejection moot. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §102

Claims 1, 2, 4, 8-10, 15, and 131-133 have been rejected under 35 U.S.C §102(e) as being anticipated by Kees et al. (Journal of Immunology 145, 2003, pp. 77-85 (“Kees”). Applicant traverses the rejection to the extent it is maintained.

Kees is not prior art to the present application. It appears that Kees was published in December 2003 (see attached printout from the PubMed website). 35 U.S.C. 102(e), which is being asserted as the basis application of Kees against claims 1, 2, 4, 8-10, 15, and 131-133, applies only to patents and patent applications, not journal articles such as Kees. Accordingly, as Kees appears to be published after the priority date for the present application, which is October 1, 2003, Kees is not prior art to the present application.

Withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 3, 17-19, 54-70, 130 and 134-197 have been rejected under 35 U.S.C §103(a) as being obvious over Kees in view of Rezai (U.S. Patent No. 6,885,888) (“Rezai”). Applicant traverses the rejection to the extent it is maintained.

As discussed above regarding the rejection under 35 U.S.C. 102, Kees is not prior art to the present application. As such, the combination of Kees and Rezai cannot render the claims 3, 17-19, 54-70, 130 and 134-197 obvious.

Claims 20-42 have been rejected under 35 U.S.C §103(a) as being obvious over Kees in view of Rezai in view of Tracey (U.S. Patent No. 6,610,713) (“Tracey”). Applicant traverses the rejection to the extent it is maintained.

As discussed above, Kees is not prior art to the present application. As such, the combination of Kees, Rezai and Tracey cannot render the claims 20-42 obvious.

New claims 198-199

New claims 198-199 are directed to methods of inhibiting release of a pro-inflammatory mediator and methods of inhibiting an inflammatory cytokine cascade. Applicant asserts that the claims are patentable in light of the art cited in the Office Action. Applicant respectfully requests that claims 198-199 be deemed allowable.

Conclusion

In view of the foregoing, Applicants respectfully request reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested.

Applicant believes that no fees are required for submission of this paper and associated documents. However, if any fees are required, the Commissioner is authorized to charge Deposit Account No. 50-3964 for fees in connection with this filing.

The Examiner is respectfully requested to contact the undersigned by telephone at 651.259.6704 or by E-mail at kcampbell@cnwiplaw.com with any questions or comments.

Respectfully submitted,

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Enclosure: PubMed Printout regarding Kees article